IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.259/2006

Deoki Nandan & Another
...defendant-appellants
Versus
Mohan Lal S/o late Shri Ganesh Ram
...plaintiff-respondent

Date of Order ::: 11.10.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri R.S. Rathore, Counsel for defendant-appellants
Shri Alok Garg, Counsel for plaintiff-respondent
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By the Court:-

Heard learned counsel for both the parties.

The plaintiff-respondent filed a suit for eviction in respect of the rented shop in the lower court, which was decreed on the ground of personal bona-fide necessity. The judgment of the lower court has been affirmed by the first appellate court also.

The learned counsel for both the parties have argued the matter at length by referring pleadings, evidence and case law in support of their respective submissions.

Learned counsel for the appellants contended that even if there is concurrent finding of fact, the same can be interfered with by this court in second appeal as both the courts below have not decided the question of bona-fide necessity correctly in the present case and the finding of both the courts below are liable to be interfered with by this court.

On the other hand, learned counsel for the respondent contended that the question of bona-fide necessity is purely a question of fact and both the courts below have considered the evidence of both the parties in detail and have recorded a finding about bona-fide necessity of rented premises in favour of the plaintiff.

I have considered the submissions of learned counsel for both the parties. The question of bona-fide necessity in respect of rented premises depends on facts and circumstances of each case. I have considered the finding of both the courts below in the light of submissions of learned counsel for both the parties and after considering the finding of both the courts below as well as submissions of learned counsel for both the parties, I am of the view that the question of bona-fide necessity in the present case is purely a question of fact and there is concurrent finding of fact by both the courts below in this regard which cannot be interfered with by this court in second appeal under Section 100 of the Code of Civil Procedure. No illegality or perversity has been pointed out in the findings of both the courts below so as to interfere in the second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is dismissed at admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

//Jaiman//